

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:00cv33**

<b>EDWARD R. MILLS, <i>et. al.</i>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>AcandS, INC., <i>et. al.</i>,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

**THIS MATTER** is before the Court on the Plaintiffs' Motions to Strike the motion for summary judgment and second motion for summary judgment of Defendant Crown Cork & Seal Company, Inc.<sup>1</sup>

The motion to strike is based on the fact that the motion for summary judgment was filed three days after the deadline established in the pre-trial order and case management plan. The second motion for summary judgment

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<sup>1</sup>Plaintiffs filed separate motions for four different plaintiffs in the same case. In the future, counsel should file one motion addressing the separate plaintiffs involved. It is a drain on judicial resources to file multiple motions in the same case involving the same issue.

was allegedly filed on October 10, 2005. The Court finds the Defendant should be given an opportunity to explain why the late filings were made.

**IT IS, THEREFORE, ORDERED** that the Defendant Crown Cork & Seal Company, Inc. shall file response to the motion to strike on or before October 21, 2005.

**IT IS FURTHER ORDERED** that pending such response, the Plaintiffs' time within which to respond to the motions for summary judgment is suspended and will begin to run as of the date of entry of an Order disposing of the motion to strike.

**IT IS FURTHER ORDERED** that the parties are to make a good faith effort to resolve the issues concerning exposure involved with this motion and shall make a written report to the Court of such efforts on or before October 21, 2005. In the event that, after the Plaintiff's evidence at trial, judgment is entered on behalf of the Defendant, the Court may assess appropriate and reasonable costs against the offending party or parties.

**Signed: October 11, 2005**

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

